

Local Form No. 1A

(9/97)

**UNITED STATES BANKRUPTCY COURT**  
**EASTERN DISTRICT OF NORTH CAROLINA**  
Wilson \_\_\_\_\_ **Division**

**IN RE:**

Marty Glenn Bunch

**CASE NUMBER:**

09-08505-8-RDD

**DEBTOR(S)**

**NOTICE OF MOTION FOR RELIEF FROM CO-DEBTOR STAY**

Lake Gaston Supply Co. Inc. has filed papers with the court to obtain relief from the co-debtor stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before 11/30/2009 unless otherwise ordered, you or your attorney must file with the court, pursuant to Local Rule 9013-1 and 9014-1, a written response, an answer explaining your position, and a request for hearing at:

US Bankruptcy Court, 1760-A Parkwood Blvd., Wilson, NC 27893

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Robert Browning, Bankruptcy Trustee, PO Box 8248, Greenville, NC 27835  
Rhonda Bagshawe, Attorney for LGSC, PO Box 472, Warrenton, NC 27589

If a response and a request for hearing is filed in writing on or before the date set above, a hearing will be conducted on the motion at a date, time and place to be later set and all parties will be notified accordingly.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection and may enter an order granting that relief.

Date: 11/9/2009

Signature: s/Rhonda W. Bagshawe

Name: Rhonda W. Bagshawe

Address: PO Box 472, Warrenton, NC 27589

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WILSON DIVISION**

<b>IN RE:</b>	)	
	)	
Marty Glenn Bunch,	)	<b>Chapter 13</b>
	)	<b>Case No: 09-08505-8-RDD</b>
Debtor	)	
	)	
Address: 110 Robinson Dr.	)	
Roanoke Rapids NC	)	
27870	)	
Social Security No: xxx-xx-2389	)	

**MOTION FOR RELIEF FROM CO-DEBTOR STAY**

**NOW COMES** LAKE GASTON SUPPLY COMPANY, INC., by and through Counsel, pursuant to 11 U.S.C. § 1301(c)(1) through (3), and moves the Court for an Order lifting the co-debtor stay in this case to permit Lake Gaston Supply Company, Inc. to pursue its remedies at state law with respect to business assets owned by Stonehouse Builders, Inc., the primary obligor on a business debt personally guaranteed by the Debtor, and in support thereof shows to the Court the following:

1. The Movant is a North Carolina corporation duly organized and validly existing under and pursuant to the laws of North Carolina.
2. Upon information and belief, the Debtor is a citizen and resident of Roanoke Rapids, NC, in the Eastern District of North Carolina.
3. Between January and July 2009, Stonehouse Builders, Inc., hereinafter "Stonehouse", purchased under the terms of a business credit application, construction and building supplies from Lake Gaston Supply Company, Inc., hereinafter "LGSC."
4. Debtor Marty G. Bunch, under the terms of said business credit application, personally guaranteed payment for said purchases. Attached hereto as Exhibit "A" and incorporated by reference herein as if set forth in its entirety is a copy of the credit application.
5. At the time of the filing of Debtor's Chapter 13 voluntary petition, the amount owed by Stonehouse to LGSC totaled \$30,397.31. Stonehouse was obligated to pay this debt, but failed to do so.

6. LGSC, after consultation with its attorney, is of the opinion that the co-debtor stay does not apply to the debt owed by Stonehouse, as it is not a consumer debt, but a business debt. However, in an excess of caution, LGSC seeks relief from the co-debtor stay.
7. Debtor's personal guarantee of the debt owed was in the ordinary course of business, pursuant to a business credit application.
8. Stonehouse received the benefit of the purchases made on credit, as the purchases were used in construction performed or to be performed by Stonehouse.
9. LGSC will suffer irreparable harm if not allowed relief from the co-debtor stay. On information and belief, although it is an active corporation, Stonehouse is no longer in operation. If LGSC is not allowed to pursue collection efforts at the current time, corporate assets may no longer be available to satisfy the debt owed.
10. Debtor does not propose to pay the debt owed to LGSC in full.

**WHEREFORE**, LGSC moves the Court:

1. To lift the co-debtor stay to permit LGSC to pursue state court remedies to collect the debt owed by Stonehouse.
2. That the requirements of Bankruptcy Rule 4001(a)(3) be waived and that the co-debtor stay be modified effective immediately upon entry of the Order.
3. For any other and further relief as the Court may deem just and proper.

This the 8<sup>th</sup> day of November, 2009.

Williams and Bagshawe, LLP

By: *s/Rhonda W. Bagshawe*  
Rhonda W. Bagshawe  
Attorney for Movant  
State Bar No: 17643  
PO Box 472  
Warrenton, NC 27589  
252-257-4400 Telephone  
252-257-4263 Facsimile

CERTIFICATE OF SERVICE

I, Rhonda W. Bagshawe, hereby certify that I, being over the age of eighteen, served a copy of the foregoing Motion for Relief from Co-Debtor Stay and Notice of Motion upon the following persons by US Mail or electronic noticing on the 9<sup>th</sup> day of November, 2009:

Robert Browning, Chapter 13 Trustee (electronic)

John T. Orcutt, 6616-203 Six Forks Road, Raleigh, NC 27615

Marty Glenn Bunch, 110 Robinson Dr., Roanoke Rapids, NC 27870

P. Jerry Stainback, PO Box 1820, Henderson, NC 27536

Stonehouse Builders Inc., Attn: Marty G. Bunch, Registered Agent, PO Box 1172, Littleton, NC 27850

s/Rhonda W. Bagshawe

Rhonda W. Bagshawe